



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

November 22, 2023

BY ECF

The Honorable Edgardo Ramos
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *United States v. Seth Markin, 22 Cr. 395 (ER)*

Dear Judge Ramos:

The Government respectfully submits this letter on behalf of the parties to inform the Court that, in advance of the January 8, 2024 trial date, the parties jointly propose the following pretrial disclosure deadlines, which they request that the Court adopt:

December 4, 2023: The parties provide notice, consistent with the requirements of Rule 16 of the Federal Rules of Criminal Procedure, of experts potentially to be called during their respective cases-in-chief.

The Government provides notice (consistent with Rule 16) to the defendant of evidence it may seek to offer pursuant to Federal Rule of Evidence 404(b).

December 8, 2023: The parties provide notice, consistent with Rule 16, of any rebuttal experts potentially to be called in response to the parties' December 4 expert disclosures.

The parties file motions *in limine*.

The parties file proposed *voir dire* and proposed jury instructions.

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December 15, 2023: The parties file any motions to preclude or limit expert testimony.

The Government provides to the defendant material covered by 18 U.S.C. § 3500 and *Giglio v. United States*, 405 U.S. 150 (1972), to the extent it was not previously produced to the defendant.

The Government provides the defendant a list of exhibits the Government reasonably expects to seek to introduce during its case-in-chief. This exhibit list will be subject to good-faith revision as the Government continues to prepare its case for trial, including in response to the defendant's lists of proposed exhibits and as it prepares summary and demonstrative exhibits.

December 22, 2023: The parties file responses to motions *in limine*, and responses to expert challenges.

The Government provides to the defendant a list of witnesses whom the Government reasonably expects to call in its case-in-chief. This list will be subject to good-faith revision as the Government continues to prepare for its case and as stipulations are (or are not) reached with respect to custodial and authentication witnesses.

December 29, 2023: The defendant provides to the Government a list of witnesses whom the defendant reasonably expects to call in his case. This list will be subject to good-faith revision as the defendant continues to prepare his case and as stipulations are (or are not) reached with respect to custodial and authentication witnesses.

The defendant provides to the Government all materials subject to disclosure pursuant to Rule 16(b), as well as a list of exhibits that the defendant reasonably expects to seek to introduce during the Government's case-in-chief. This exhibit list will be subject to good-faith revision as the defendant continues to prepare for his case.

The defendant provides to the Government material covered by Rule 26.2 of the Federal Rules of Criminal Procedure.

The parties recognize that 18 U.S.C. § 3500 and Rule 26.2 obligations are continuing, so when new material is generated after the pertinent deadline described above, such material will be timely provided as part of the parties' mutual agreement to act in good faith, including by timely agreeing to stipulations to avoid the need to call custodians of records or otherwise to authenticate evidence. The parties have also agreed that, consistent with Rule 26.2(c), if any party intends to

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withhold any such material on the ground of privilege or work-product, it will provide that material to the Court for timely review. In addition to the schedule above, the parties will confer and try to reach an agreement regarding the following issues, which are designed to narrow or moot disputes, specifically: (1) attempting in good faith to share any proposed summary chart before it will be sought to be introduced, notwithstanding the foregoing, to permit the opposing party to review the accuracy of the chart; (2) sharing any visuals or slides to be used in opening statements, at least one business day before such statements; and (3) alerting the opposing party to the next day's witnesses, in anticipated order.

Furthermore, the parties agree that the dates set forth herein do not alter the parties' reciprocal discovery obligations or the obligation to produce materials obtained pursuant to Federal Rule of Criminal Procedure 17(c), absent an order to the contrary.

Respectfully submitted,

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cc: (by ECF)
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